

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D35399

Y/ct

_____AD3d_____

Submitted - May 4, 2012

PETER B. SKELOS, J.P.
JOHN M. LEVENTHAL
ARIEL E. BELEN
SHERI S. ROMAN, JJ.

2011-01825

DECISION & ORDER

People of State of New York, respondent,
v Jorge Samayoa, appellant.

Robert C. Mitchell, Riverhead, N.Y. (James H. Miller III of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Guy Arcidiacono of counsel;
Sheila Ballato on the brief), for respondent.

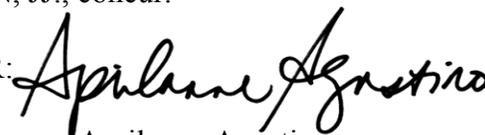
Appeal by the defendant from an order of the County Court, Suffolk County (Kahn, J.), dated February 2, 2011, which, after a hearing, designated him a level two sexually violent offender pursuant to Correction Law article 6-C.

ORDERED that the order is affirmed, without costs or disbursements.

The County Court's designation of the defendant as a level two sexually violent offender was supported by clear and convincing evidence (*see* Correction Law § 168–n[3]; *People v Pettigrew*, 14 NY3d 406, 408; *People v Mingo*, 12 NY3d 563, 571; *People v Atkinson*, 65 AD3d 1112; *People v Bright*, 63 AD3d 1133; *People v Inghilleri*, 21 AD3d 404, 406). Contrary to the defendant's contention, the County Court did not err in assessing him 10 points under risk factor 1 (*see* Sex Offender Registration Act: Risk Assessment Guidelines and Commentary [hereinafter SORA Guidelines], at 7-8 [2006 ed.]; Penal Law §§ 130.00[8], 130.65[1]; *People v Harris*, 93 AD3d 704), and 10 points under risk factor 12 (*see* SORA Guidelines, at 15-16; *People v Mingo*, 12 NY3d at 571; *People v Deturris*, 90 AD3d 727; *People v Vega*, 79 AD3d 718; *People v Smith*, 78 AD3d 917, 918; *People v Wright*, 37 AD3d 797; *People v Lewis*, 37 AD3d 689, 690; *People v Fortin*, 29 AD3d 765).

SKELOS, J.P., LEVENTHAL, BELEN and ROMAN, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

June 27, 2012

PEOPLE OF STATE OF NEW YORK v SAMAYOA